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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In re	)	
	)	
Review of the Commission's	)	MM Docket No. 94-150
Regulations Governing	)	
Attribution of Broadcast	)	
and Cable/MDS Interests	)	
	)	
Review of the Commission's	)	MM Docket No. 92-51
Regulations and Policies	)	
Affecting Investment in the	)	
Broadcast Industry	)	
	)	
Re-Examination of the	)	MM Docket No. 87-154
Commission's Cross-Interest	)	
Policy	)	

TO: The Commission

**COMMENTS OF GLENWOOD COMMUNICATIONS CORPORATION**


Glenwood Communications Corporation (Glenwood), by its attorney, hereby respectfully submits its Comments in the above-referenced proceedings. Those comments are stated in the attached statement, executed by George E. DeVault, Jr., President of Glenwood.

Respectfully submitted,

**GLENWOOD COMMUNICATIONS CORPORATION**

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By

  
Dennis J. Kelly  
Its Attorney

February 7, 1997

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Policy	)	

**COMMENTS OF GLENWOOD COMMUNICATIONS CORPORATION**

**Background and Introduction**

1. Glenwood Communications Corporation (GCC) hereby presents its comments on the Commission's Further Notice of Proposed Rulemaking in the above referenced matters. GCC is the parent of Holston Valley Broadcasting Corporation (Holston), which is the licensee of full-service television station WKPT-TV; channel 19; Kingsport, Tennessee, and four television translator stations located in various communities in Tennessee and Virginia. Holston is also the licensee of five Low Power Television (LPTV) stations in Kentucky, Virginia, and Tennessee. Three AM stations and one FM station plus two FM translators all located within the Johnson City-Kingsport-Bristol, TN/VA MSA are also licensed to Holston. Holston has entered into a Time Brokerage Agreement by which it will provide programming and commercial content to an as

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yet un-built FM station in the same MSA, whose permittee has no other connection to Holston.

2. Through other subsidiaries GCC controls two other LPTV stations located in Florida and holds a 45% interest in independent full service television station WAXN(TV); channel 64; Kannapolis, North Carolina, and is the minority share-holder in a Corporation, which in turn is one of several applicants for a permit to construct a full service UHF station to be licensed to Tazewell, Tennessee. Much of WAXN(TV)'s commercial time is sold by another party through a Joint Sale Agreement (JSA).

3. GCC's comments in this matter will be limited to a discussion of Local Marketing Agreements (LMA's) and Joint Sales Agreements (JSA's) involving multiple stations located in the same local market and the way such agreements should be considered for ownership attribution purposes. GCC believes the Commission's definitions of LMA's and JSA's are inconsistent and will point out some of those inconsistencies herein. Contrary to the Commission's decisions regarding ownership attribution in its radio rules, GCC believes that there is a very great distinction between being the licensee of a station and simply providing programming or commercial continuity to the station.

#### The Imprecise Definition of Time Brokerage

4. The Commission states that the purchase of more than 15% of a

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station's broadcast hours by another party constitutes a time brokerage agreement. The next three paragraphs will demonstrate examples of what GCC believes is the confusion existing in this definition:

5. GCC's Holston is licensee of WKPT-TV, an ABC affiliate, whose programming is typical of affiliates of the ABC Television Network. On the average day WKPT-TV carries twelve or more hours of ABC Television Programming. That's 50% or more of all of the hours in the broadcast week, and WKPT-TV gets paid by ABC for carrying that programming. Holston's WAPK-LP carries around ten hours a day of programming originated by The Home Shopping Network (HSN) and is compensated by HSN for its telecast of that programming. That's over 40% of the time on the station. Neither of these arrangements is considered a Time Brokerage Agreement. We seriously doubt that if the Commission ultimately rules that Time Brokerage Agreements are attributable under the television station ownership rules, it would then consider that ABC has an attributable interest in WKPT-TV or that HSN has an attributable interest in WAPK-LP.

6. In 1988 Holston established The WKPT Radio Network whose "flagship" or originating station is Holston's WKPT(AM); Kingsport, Tennessee. At different times over the past almost nine years that network has had three different non-owned AM radio stations as affiliates. Non-owned affiliates receive local

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spot availabilities, but are also paid network compensation each month by Holston to carry a minimum amount of Holston's network programming, an amount which exceeds 15% of the affiliate's broadcast hours. Each such arrangement was evidenced by a Network Affiliation Agreement. Although pursuant to authority granted by the Commission, Holston has since acquired two of the network's affiliates, prior to those respective acquisitions Holston had no attributable interest in the non-owned affiliates of The WKPT Radio Network despite the fact that those affiliates were carrying Holston's programming during more than 15% of their respective broadcast hours and the fact that the Commission has ruled that Time Brokerage Agreements are attributable under its radio ownership rules.

7. A number of network companies have created numerous satellite-delivered radio networks featuring talk or musical programming. Often these networks offer their affiliates up to 24 hours a day of programming. Often the same network company has agreements with multiple stations in the same market. In medium to large markets the network company pays its affiliates to carry its programming including its commercials. The Commission does not hold that the network company has an attributable ownership interest in those affiliates.

8. In all of these cases the local licensee has allowed another entity to program and sell advertising on its station for more

than 15% of that station's total hours. In all of these cases the local licensee can reject any programming provided by the network; the same must be true in the case of an LMA or Time Brokerage Agreement. What sets these network affiliation relationships apart from Time Brokerage Agreements? Is it the fact that one contract is fashioned as a Time Brokerage Agreement and the other is fashioned as a Network Affiliation Agreement? Is it the fact that the local "network" affiliate generally is provided periodic breaks for the insertion of local spots and station identification announcements? If an entrepreneur feeds the same programming to two or more stations and provides such local spot availabilities and station ID "holes" in its programming, can what was characterized as a Time Brokerage Agreement and thus constituted an attributable ownership interest no longer have to be so-classified?

9. If the Commission declares television LMA's to be attributable interests, what is to keep the licensee of one station in a community from creating a "network" with a full service TV station in the same community as one affiliate plus say two one watt LPTV stations out of town as other affiliates? All affiliates would be given local spot and station ID avails, but as is the practice in radio the spot avails may be filled on the network by public service or promotional announcements so that in the event the local affiliate "doesn't have anything sold that hour, it can simply pass through the "network" signal."

Joint Sales Agreements Should Not Be Attributable Per Se

10. In this proceeding the Commission also asks for comments on Joint Sales Agreements or JSA's. Under a JSA the station's licensee programs the station. That fact keeps the station a separate "voice" in the community providing programming diversity. The fact that the other party to the JSA sells commercial time on the station is thus not a factor in the control of the licensee's station any more than the appointment of a local, regional, or national sales rep firm or independent sales contractor is a factor in the control of the licensee's station.

11. If the Commission were to decide to make JSA's attributable, then by the same token the large advertising "rep" firm conglomerates, which through multiple subsidiary firms with different names actually represent two or more television stations in the same market must be considered to have an attributable interest in those stations, because in essence such arrangements constitute JSA's involving two (or more) stations in the same market.

Conclusion

11. Whether the licensee of a given station is a network affiliate or is carrying programming provided by the licensee of another local station under a Time Brokerage Agreement or commercials placed through the licensee of another local station

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under a JSA, the licensee is the party responsible to the Commission for the operation of its station. GCC contends that as long as a licensee maintains control over its station, meets the Commission's staffing and studio requirements, offers sufficient programming responsive to the problems and needs of the community to which the station is licensed, and does not through its practices in the sale of program and/or commercial time create a monopoly in the eyes of the Department of Justice, the party purchasing program or commercial time from the licensee should not be held to have an attributable ownership interest in the licensee's station.

Respectfully submitted,

GLENWOOD COMMUNICATIONS CORPORATION

By: 

George E. DeVault, Jr.  
Its President